

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CR-357-1-BR
No. 5:16-CV-294-BR

ISIAH JAMAL BARBER,)
)
Petitioner,)
)
v.) ORDER
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

This matter is before the court on the parties' supplemental briefs filed in response to the court's 27 August 2019 order. (DE ## 205, 206.) Petitioner contends that his conviction on Count 2 should be vacated in light of United States v. Davis, 139 S. Ct. 2319 (2019), and that he should be resentenced on Count 1. (DE # 206; see also DE # 154.) The government agrees. (DE # 205, at 1.)

Petitioner's 28 U.S.C. § 2255 motion, (DE # 154), is ALLOWED. The judgment entered 14 March 2012 and petitioner's conviction on Count 2 are VACATED. Count 2 is DISMISSED. Resentencing on Count 1 is SET for 28 October 2019. The U.S. Probation Office is DIRECTED to file a memorandum setting forth any revisions to the Presentence Report, (DE # 47).

This 10 September 2019.


W. Earl Britt
Senior U.S. District Judge